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10 **CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD**  
11 **CENTRAL VALLEY REGION**

12 ) Complaint No. R5-2016-0512  
13 )  
14 In the Matter of the Administrative ) **REPLY TO PROSECUTION TEAM'S**  
15 Civil Liability Complaint ) **OBJECTION TO DISCHARGER'S**  
16 ) **EVIDENCE AND WITNESS LIST**  
17 )  
18 ) Hearing: April 21 / 22, 2016  
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20 The Malaga County Water District ("District"), hereby replies to the Prosecution  
21 Team's objection to the "Discharger's" evidence and Witness List. The objection is, by  
22 its terms, "aimed only at the time limits listed in the "Discharger's" submittal . . ." and  
23 appears to be made on only two grounds: (1). That the District failed to timely object to  
24 the hearing procedures; and (2). The amount of time estimated by the District amounts  
25 to a "waste of the Central Valley Water Board's and Staff's time and resources." The  
26 objection does not set forth any legal support for the Prosecution Team's objections.  
27 As set forth in the District's objections to the hearing procedures, the hearing  
28 procedures, in addition to not being properly served, are unreasonable, and are not

1 authorized by any statute, and violate the District's statutory and Constitutional due  
2 process rights to a full, fair and meaningful opportunity to be heard. Further, as set  
3 forth in the District's objection to the hearing procedures, the District is entitled by  
4 Government Code §11425.10, to the right to be heard including the opportunity to  
5 present and rebut evidence. Limiting the District to 60 minutes of time to present  
6 evidence, cross-examine witnesses, and rebut evidence presented by the Prosecution  
7 Team or any time limit imposed upon the District prior to the hearing constitutes a  
8 violation of the statute, is an unauthorized impairment of or qualification to that  
9 statutory right, and plainly violates the District's Constitutional due process rights  
10 particularly in light of the fact that the purported decision maker, the Regional Water  
11 Quality Control Board (RWQCB), did not establish any hearing procedures for this case  
12 and all pre-hearing determinations are being made by unidentified staff of RWQCB.  
13 (See *Night Life Partners v. City of Beverly Hills* (2003) 108 Cal.4<sup>th</sup> 81, 90-92; *Sabey v.*  
14 *City of Pomona* (2013) 215 Cal.App.4<sup>th</sup> 489).

15 For the foregoing reasons, the District's objections to the hearing procedures  
16 should have been sustained instead of overruled by a staff attorney and the current  
17 objection of the "Prosecution Team" is meritless and must be overruled.

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19 Dated: March 30, 2016

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22 Neal E. Costanzo, Attorney for  
23 Malaga County Water District  
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Shirlene R. Capuchino, the undersigned, declare that:

My electronic mail address is: scapuchino@costanzolaw.com

## 1. REPLY TO PROSECUTION TEAMS OBJECTION TO DISCHARGER'S EVIDENCE AND WITNESS LIST

on all parties to this action as addressed below:

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: March 30, 2016

*Shirlene R. Capuchino*  
Shirlene R. Capuchino